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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
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Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENTS OF PACIFIC TELESIS GROUP

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SUMMARY

In enacting the Telecommunications Act of 1996 ("Act"), Congress expressly sought to establish a "pro-competitive, deregulatory" environment for the telecommunications industry. Consistent with the goals of promoting competition and reducing regulatory burdens, Pacific Telesis Group ("PTG" or "Pacific") recommends that the Commission identify "safe harbors" or general guidelines, rather than establishing detailed requirements to govern the following: (1) duty to provide notice of technical network changes; (2) dialing parity; (3) access to rights-of-way; and (4) number administration. The one-size-fits all approach of adopting national standards is unnecessary and may impair rather than encourage competition.

I. Duty To Provide Notice of Technical Network Changes

The FCC need not develop additional rules governing the notice and disclosure of network information. With minor modifications, the existing network disclosure rules established in the *Computer II* and *III* proceedings and contained in Part 68 of the Commission's rules will be adequate so long as they are applied equally to all carriers. Such requirements constitute a "safe harbor" that should ensure that interconnectors have timely access to technical information necessary for efficient interconnection, while not creating disincentives for innovation. In addition, PTG supports the FCC's

proposals to require the disclosure of necessary technical information through industry forums and trade publications.

II. Dialing Parity

PTG supports an "equal digit dialing" definition of dialing parity and urges the Commission to refrain from mandating uniform federal rules that would unduly limit the states' choices in selecting methodologies and procedures for implementing toll dialing parity. By "equal digit dialing," PTG means that customers of one carrier can reach subscribers of a different carrier without having to dial extra digits. It is noteworthy that state commissions and LECs have already made considerable progress in this area. Accordingly, the Commission should defer to the state commissions, which are working closely with the LECs, to implement presubscription to ensure that dialing parity becomes a reality.

The FCC should also take a flexible approach in adopting guidelines dealing with related dialing parity issues. For example, the Commission should not prescribe a nationwide schedule for implementing toll dialing parity. Instead, LECs should be permitted to design their own implementation plans and schedules based on local conditions and state requirements. Further, the states, not the FCC, should be responsible for determining what, if any, consumer education requirements to establish, and whether balloting should be required.

Additional detailed rules to implement the Act's mandate for nondiscriminatory access to operator services, directory services, and directory listings are unnecessary. The FCC should allow parties to privately negotiate for the provision of such services, which are currently available from a number of sources on non-discriminatory terms. However, the FCC should clarify that access to directory services does not include access to the underlying directory assistance database

In addition, PTG urges the Commission to wait to issue dialing delay requirements at least until the provisions of the Act have been implemented and the network facilities are fully operational. Finally, PTG submits that the specific calculation and method of recovering the costs of implementing dialing parity should be left to state determination.

III. Access to Rights-of-Way

Additional detailed rules regarding access to poles, conduits, and rights-of-way are unnecessary. Because the Act's requirements are clear, Commission guidelines will be sufficient to inform parties on how to comply with the Act. General guidelines will also allow parties to flexibly meet their particularized needs and to address the unique issues that may arise in access-related situations.

One important qualification should be established at the outset. Owners of assets should not be required to treat themselves in precisely the same manner that they treat attaching entities. Nothing in the Act requires such an outcome. Therefore, uniform treatment of affiliates and nonaffiliates should be sufficient to comply with the nondiscriminatory access requirement. PTG further submits that detailed rules governing the modification or alteration of structures is unwarranted, as the current California and Nevada practices are fully adequate. The FCC should also allow the parties to agree upon notice requirements and to resolve pricing issues in the negotiation process.

Finally, reciprocal access is critical to fostering local competition. Therefore, CLCs ("competitive local exchange carriers") should be required to provide the same access to incumbent LECs and other CLCs as these LECs are required to provide to the CLCs. Anything less than reciprocal access should constitute unlawful discrimination in violation of the Act.

IV. Number Administration

PTG supports the FCC's number administration guidelines as detailed in the *North American Numbering Plan Order* ("*NANP Order*") and believes that additional rules are unnecessary. In addition, PTG agrees that Bellcore, the LECs, and the states should continue to perform each of their respective functions related to number administration until such functions are transferred to the new impartial number administrator. All parties that directly and indirectly benefit from numbering resources should bear the cost of establishing a numbering administration.

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COMMENTS OF PACIFIC TELESIS GROUP

Pacific Telesis Group ("PTG" or "Pacific") hereby respectfully submits its comments in the above-captioned docket with respect to the following issues raised in the *Notice of Proposed Rulemaking*:[1] (1) the duty of local exchange carriers to provide notice of technical network changes (*Notice*, para. 189-194); (2) dialing parity (*Notice*, para. 202-219); (3) access to rights-of-way (*Notice*, para. 220-225); and (4) number administration (*Notice*, para. 250-259).

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, *Notice of Proposed Rulemaking*, FCC 96-182 (released April 19, 1996) ("*Notice*").

I. INTRODUCTION

Under the Act, local interconnection arrangements are to be negotiated in the first instance by the parties with recourse to state mediation, arbitration, and review, if necessary.[2] Any attempt by the Commission to unreasonably constrain the scope and results of such negotiations and state participation runs the very real risk of undermining the Act's -- and the Commission's -- pro-competitive goals.

As detailed in PTG's earlier comments, not only have many states already made considerable progress in developing and implementing local competition policies, they are much closer than the Commission to the day-to-day details of local competition. The states have available to them procedural alternatives for fact finding that are well suited to resolve the many practical issues presented in the promulgation of interconnection and related requirements. States are also able to tailor their rules and policies to accommodate variations in local conditions. Consequently, PTG believes that the Commission cannot and should not seek to micro-manage the interconnection process but, except where specifically directed otherwise, should seek to create "safe harbors" for local competition policies by establishing general guidelines.

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[2] *See* Section 252.

Under this approach, parties would remain free to privately negotiate interconnection agreements, and states would retain flexibility to adopt interconnection policies with the knowledge that certain results would, without question, be deemed acceptable under the Act. Other results, moreover, would not be foreclosed and, in fact, would be encouraged. Identifying such "safe harbors" offers the additional benefit of providing PTG and the other RBOCs with a reasonable level of assurance that use of those approaches would satisfy the requirements of Section 271 of the Act regarding interLATA entry. PTG strongly believes that this approach will permit competition to flourish in local exchange markets. In this context and as described in detail below, PTG submits that:

- Application of existing network information notice and disclosure rules to all interconnecting carriers, with minor modifications, will satisfy the requirements of the Act.

- Dialing parity should be defined to require "equal digit dialing." Presubscription and other dialing parity issues should largely be left to the states, and additional rules addressing access to directory and operator services, as well as telephone numbers, are unnecessary in light of existing requirements and the marketplace availability of those services. The FCC should, however, not overlook the importance of carrier identification codes to the competitive status of carriers in the toll marketplace.

- Nondiscriminatory access to poles, ducts, conduits, and rights-of-way should largely be dealt with on a negotiated basis, does not require a facility owner to treat itself precisely the same as others, permits denial of access where it would create a hazard, and should be applied reciprocally to all carriers.

- The FCC's existing number administration policies are adequate and should be promptly implemented.

II. THE COMMISSION SHOULD ENDORSE A REGULATORY FRAMEWORK FOR NOTICE AND DISCLOSURE OF NETWORK INFORMATION THAT APPLIES EQUALLY TO ALL CARRIERS AND IS BASED ON EXISTING REQUIREMENTS (*Notice*, para. 189-194)

Section 251(c)(5) requires LECs to provide reasonable public notice of technical changes to their networks.[3] The requirement to disclose network information is hardly new. In fact, the Commission already has in place a number of rules that address this issue. PTG submits that, with minor modifications, application of these existing network information disclosure rules to all LECs is sufficient to ensure the development of competitive, interoperable networks. Accordingly, the FCC should designate compliance with such requirements as a "safe harbor" under the Act.

In 1980, the FCC extended "to all carriers owning basic transmission facilities the requirement that all information relating to network design be released to all

[3] Section 251(c)(5).

interested parties on the same terms and conditions, insofar as such information affects either interconnection or the manner in which interconnected CPE operates."[4] The scope of the information covered by this rule is well understood in the industry and is more than adequate to meet the requirements of the Act. (*See Notice*, para. 189-190) Thus, all LECs could simply be required to disclose comparable information that affects network interconnection.

The network disclosure timetable established in the *Computer III* proceeding would also be an appropriate "safe harbor" if extended to all LECs. (*See Notice*, para. 192) These network disclosure rules require AT&T and the RBOCs to disclose information to entities in the enhanced service industry that have agreed to sign nondisclosure agreements at the "make/buy" point (*i.e.*, when the carrier decides to make itself, or to procure from another entity), any product the design of which affects or relies on a network interface.[5] In addition, the rules require those carriers to release the information publicly twelve months prior to the introduction of the service

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[4] *Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II)*, 84 FCC 2d 50, 82-83 (1980).

[5] *Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer III), Phase II*, 2 FCC Rcd 3072, 3087-93 (1987).

or network change.[6] However, if the carrier is able to introduce the service less than twelve months after the make/buy point, it must issue the public disclosure at that point, but not less than six months before introduction of the service.[7] (*See Notice*, para. 192) These time frames appropriately balance the interests of public disclosure with the need to ensure that the premature release of proprietary information does not undermine incentives for network innovation.

Part 68 of the Commission's rules likewise addresses the disclosure of information affecting the connection of terminal equipment to the telephone network. Under 47 C.F.R. Section 68.110(a), telephone companies must, upon request, provide technical information needed for terminal equipment to operate in a manner compatible with the network.[8] Moreover, telephone companies must provide adequate written notice to customers of network changes that can be reasonably expected to render any customer's equipment incompatible with the network, require modification or alteration

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[6] *Id.*

[7] *Id.*

[8] 47 C.F.R. Section 68.110(a).

of such terminal equipment, or otherwise materially affect its use or performance.[9] These provisions are fully consistent in substance with the previously discussed requirements and, thus, similarly provide an appropriate model for network-to-network interconnection that is responsive to the questions raised by the Commission. (*See Notice*, para. 189-192).

PTG further supports the Commission's proposal to require disclosure of necessary technical information through industry forums or in trade publications. (*See Notice*, para. 191) Such mechanisms provide reasonable and effective means for distributing information to a wide industry segment.

In sum, the existing regulatory regime ensures timely notice and adequate disclosure of important technical information regarding CPE and other interconnection mechanisms. It is equally appropriate for network-to-network interconnection purposes. To prevent carriers from withholding critical information to the detriment of others and to foster competition, the Commission should apply the existing set of requirements to all LECs, not just to the RBOCs.

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[9] 47 C.F.R. Section 68.110(b).

III. THE COMMISSION SHOULD NOT ADOPT DETAILED DIALING PARITY REQUIREMENTS (*Notice*, para. 202-219)

The Act imposes a duty on all LECs to provide dialing parity to competing providers.[10] The FCC tentatively concludes that this provision requires a LEC "to permit telephone exchange service customers within a defined local calling area to dial the same number of digits to make a local telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider." (*Notice*, para. 211)

PTG endorses this approach to local dialing parity and encourages the Commission to distinguish local dialing parity from toll dialing parity. The Commission should acknowledge that the local dialing parity requirement is satisfied if customers of different LECs can interchange traffic throughout the relevant calling area in a seamless fashion without dialing extra digits and with transmission quality essentially the same as for calls between two customers of the incumbent LEC. Toll

[10] Section 251(b)(3).

dialing parity, on the other hand, should mean that customers can reach competing IXCs on the same dialing basis.[11]

California has adopted a local dialing parity requirement similar to that described above.[12] This standard ensures customer convenience by precluding the use of access codes and, thereby, promotes local competition by removing any deterrent to call completion to and from customers served by new entrants.

With respect to the other dialing parity issues raised in the *Notice*, notably that of toll dialing parity, PTG recommends that states be permitted to operate within broad guidelines established by the Commission. (*See Notice*, para. 207-10) The states, rather than the Commission, are best situated to determine when and how to implement the details of toll dialing parity programs and policies. Consequently, as we explain

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[11] The number of digits in a carrier identification code ("CIC") is another important aspect of dialing parity. Consequently, the FCC should ensure that no local carriers, including incumbent LECs, are disadvantaged by the number of digits a customer needs to dial to reach its preferred carrier. The amount of time during which three-digit CICs and four-digit CICs are in use concurrently should be minimized so that an equal number of digits will be used by all customers.

[12] *See* Order Instituting Rulemaking and Investigation (July 24, 1995) Cal. P.U.C. Dec. No. 95-07-054, App. E at 10 (Rule 7(A)).

more fully below, the FCC should refrain from mandating uniform, federal rules that would limit the states' choices of methodologies and procedures for implementing toll dialing parity. (*See Notice*, para. 210)

A. Presubscription Is Best Addressed by the States

As the Commission has recognized, there is already substantial variation among the states, for example, with respect to intraLATA toll dialing parity. (*Notice*, para. 210) Some states have adopted a presubscription methodology that allows a customer to choose between the incumbent LEC and any interexchange carrier that is authorized in that state to carry intrastate, intraLATA toll calls. (*Notice*, para. 210) Other states have adopted a presubscription methodology that allows the customer a choice between the incumbent LEC and the same interexchange carrier to which the customer is currently presubscribed for interLATA long-distance calling. (*Notice*, para. 210)

PTG is actively working to develop intraLATA presubscription ("ILP") implementation plans with its state commissions coincident with interLATA relief. PTG intends to offer ILP to business and residential customers in its franchise area. Consistent with the Act, this capability will eliminate the current requirement to dial

10XXX/101XXXX to route intraLATA toll calls to a carrier other than Pacific or Nevada Bell.[13]

PTG will propose "2-PIC" technology to achieve dialing parity as defined by the Act. Under this method, the customer may select up to two carriers to complete a toll call. The default carrier for both existing and new customers who do not actively choose an intraLATA toll provider should be the dial-tone provider. This result is consistent with current technology, in which switch designs automatically route all intraLATA calls to the dial-tone provider when a line does not have an intraLATA toll PIC assignment.

The *Notice* mentions "multi-PIC" and "smart-PIC" as presubscription methodologies being considered by some states. (*Notice*, para. 210) PTG cautions the Commission to keep in mind that these technologies are currently unavailable fornetwork deployment. Moreover, PTG is uncertain when such capabilities will be fully operational. These presubscription methodologies will also require substantial factual examination by states before being adopted. For that reason, the FCC should not mandate their implementation at this time.

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[13] Of course, customers with direct connections to IXC points of presence ("POPs") do not have to dial 10XXX to make intraLATA toll calls with an IXC.

Because much of the technology required to achieve presubscription is still evolving and will continue to do so, technical limitations will inevitably be encountered at the local level. For example, not all switch types have the capability to allow presubscription for all dial-tone offerings. Such technological uncertainty is another important reason why the Commission should not establish rigid, detailed rules regarding dialing parity.

B. The Commission Should Be Similarly Circumspect in Adopting Guidelines Dealing With the Other Dialing Parity Issues Raised in the *Notice*.

Implementation Schedule. The FCC seeks input on establishing an implementation schedule for complying with the toll dialing parity requirements. (*Notice*, para. 212) PTG submits that a nationwide timetable is unnecessary because of the deadlines imposed on RBOCs under the Act,[14] as well as the substantial activity already occurring at the state level. As the Commission points out, some form of intraLATA toll dialing parity is available or has been ordered in eighteen states. (*Notice*, para. 203)

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[14] *See* Section 271(e)(2).

As discussed above, PTG is developing ILP plans to achieve toll dialing parity as required by the Act. PTG will be ready with ILP coincident with its interLATA entry. This plan is an ambitious effort to fulfill its obligations in a timely and efficient manner. The Commission should likewise allow other LECs to craft their own implementation plans and schedules based on local conditions and state requirements.

Consumer Education. The FCC also asks whether it "should require LECs to notify consumers about carrier selection procedures or impose any additional consumer education requirements." (*Notice*, para. 213) Again, such matters should be handled by the states, which are in the best position to assess the costs of such an undertaking and the informational needs of their citizens. It follows that the FCC should not require LECs to participate in balloting or other such programs. End users are already aware of their interLATA toll service options, and advertising and promotions sponsored by carriers provide sufficient education as new alternatives become available.

Operator Services. In the *Notice*, the Commission interprets nondiscriminatory access to operator services to mean, at least in part, that a telephone service customer, regardless of the identity of her local telephone service provider, must be able to connect to a local operator by dialing "0" or "0" plus the desired telephone number.

(*Notice*, para. 216) The FCC seeks input on what, if any, action is necessary to implement these requirements. (*Notice*, para. 216)

PTG submits that no additional rules are warranted to implement the Act's requirement of nondiscriminatory access to operator services. The CPUC has placed on all carriers in California the reciprocal responsibility to ensure that operator services are mutually provided.[15] Specifically, the CPUC requires LECs and CLCs ("competitive local exchange carriers") to enter into mutual agreements for the interoperability of operator services between networks.[16] Rather than imposing detailed requirements, the FCC should endorse this flexible approach and allow parties to negotiate for the provision of operator services as was envisioned by Congress for interconnection requirements.

Moreover, PTG will also address access to operator services in its ILP implementation plan. Under the plan, intraLATA 0+ and all 0- traffic will be routed for all switch types to the selected carrier. The selected carrier, in turn, is expected to provide operator services to its end users along with the toll services it provides. In addition, the Commission asks whether the nondiscriminatory access provision

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[15] Order Instituting Rulemaking and Investigation (Feb. 23, 1996) Cal. P.U.C. Dec. No. 96-02-072 at 41; App. E at 15 (Rule 8(H)) ("Cal. P.U.C. Order").

[16] *Id.*

imposes a duty upon LECs to resell operator services. (*Notice*, para. 216) While PTG currently provides operator services for resale with local access 1FR and 1MB, as well as without, there exists no reason or need for the FCC to establish an affirmative regulatory obligation in this regard.[17] As discussed above, the FCC should avoid any such mandate and allow the parties to negotiate the provision of operator services under state auspices.

Finally, the Commission should understand that under the Act, Pacific is responsible for providing nondiscriminatory access only to those capabilities, such as operator services, that are under its control. PTG agrees that local subscribers should enjoy "0" and "0+" access to operator services, but such access is not mandated by Section 251(b)(3). Rather, LECs are obliged only to make available access to their own operator services for the use of other carriers, not to provide such services to the customers of those carriers. The same qualification applies with respect to directory assistance and directory services.

Directory Assistance/Directory Listing. The Commission seeks comment on the definition of nondiscriminatory access to directory assistance and directory listings and

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[17] Pacific offers operator services under contract on an unbundled basis to CLCs requesting these services.

asks what, if any action, is necessary to implement that requirement. (*Notice*, para. 217) As in the case of the other aspects of dialing parity, there is no need for the FCC to establish detailed rules governing access to directory assistance and directory listings. Rather, the Commission should simply clarify that access to these services does not include access to the underlying directory assistance database. Access to the database itself is infeasible given technical and security concerns, and is not required under the plain language of Section 271. PTG will continue to sell directory assistance services to CLCs as a service offering, and CLCs remain free to acquire the directory listings and create their own databases. Such services are also available from other vendors. Dialing Delay. The Commission seeks input on the appropriate definition of the term "dialing delay" and the appropriate methods for measuring and recording that delay. (*Notice*, para. 218) PTG is unaware of any delay problems with "pure" dialing parity (*i.e.*, when a number is directly assigned to a CLC).

Cost Recovery. The *Notice* asks how the costs for implementing dialing parity should be recovered. (*Notice*, para. 219) PTG supports the full and timely recovery of such costs (*e.g.*, hardware, software, consumer education costs). However, PTG recommends that the FCC leave the precise calculation and mechanisms for accomplishing that task to the states. Moreover, PTG anticipates that it will incur the

ILP implementation costs in a very short period of time. Therefore, it is appropriate to recover the costs in a reasonably short and efficient timeframe as well.

IV. DETAILED FCC RULES REGARDING ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY ARE UNNECESSARY (*Notice*, para. 220-225)

The Act imposes a duty upon LECs to provide access to poles, ducts, conduits, and rights-of-way on just and reasonable rates, terms, and conditions.[18] These requirements are clear and effectively self-executing. Accordingly, the Commission need not promulgate detailed rules to implement these Sections, but rather should limit its actions to establishing guidelines as described above. Parties can then rely on such guidelines and existing state policies when negotiating agreements to ensure compliance with the Act.

Consistent with the FCC's and the state's current approach to implementation of Section 224, the California Public Utilities Commission's ("CPUC") rules require private parties to negotiate access to and charges for rights-of-way, conduits, and pole

[18] Section 251(b)(4), 224.

attachments on a nondiscriminatory basis.[19] This broad mandate permits parties the flexibility to meet particularized needs and accommodate individualized circumstances in their agreements. In fact, PTG has already reached agreements with numerous CLCs in California and Nevada and is in the process of negotiating with several others. Given the success of the approach taken in California and Nevada, the Commission should acknowledge herein that these states' rules and policies constitute "safe harbors" for complying with the Act.

The Commission should further acknowledge that a myriad of diverse access-related situations can arise depending upon the type of property rights at issue. No one rule or set of rules could address all of the possible variations, and the FCC should not attempt to do so. Instead, the parties should be allowed to negotiate any necessary rights-of-way through contract, as is the case in California.[20] In the event that parties cannot reach agreements on rights-of-way issues, PTG recommends that they be permitted to file complaints with the state commission.[21]

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[19] Cal. P.U.C. Order, App. E at 18 (Rule 12).

[20] *See* Cal. P.U.C. Order at 51.

[21] *See id.*; *see also* Cal. Pub. Util. Code Section 767 (West 1975).

Nondiscriminatory Access. Section 224(f) requires a utility to provide access on a nondiscriminatory basis.[22] The Commission seeks comment on a number of issues including: (1) the meaning of "nondiscriminatory access;" (2) to what extent a LEC must provide access on similar terms to all requesting telecommunications carriers; and (3) whether those terms must be the same as the carrier applies to itself or to an affiliate for similar uses. (*Notice*, para. 222)

PTG's policy is to treat all parties seeking access uniformly. PTG licenses excess space on its poles and in its conduits to public utilities, telecommunications providers (including CLCs, IXCs, and PTG's affiliates), cable television operators, and governmental entities on a nondiscriminatory, first-come, first served basis. With limited exceptions, PTG licenses space under the same terms and conditions and at the same rates.[23] PTG intends to continue providing nondiscriminatory access to its surplus capacity on these terms.

However, PTG submits that the Act neither requires nor suggests that a carrier must treat itself the same as other attaching entities. States such as California have historically permitted the entity owning an asset to treat itself differently in limited

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[22] Section 224(f).

[23] For example, PTG does not charge local municipalities for pole attachment or conduit occupancy for police and fire alarm circuits.